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West Des Moines City Council Proceedings
Monday, April 1, 2013

Mayor Steven K. Gaer opened the regularly scheduled meeting of the City Council of West Des Moines, Iowa, in the Council Chambers of the West Des Moines City Hall on Monday, April 1, 2013 at 5:30 PM. Council members present were: J. Mickelson, T. Ohmart, J. Sandager, K. Trevillyan, and R. Trimble.

Jody Smith, Deputy City Manager/City Clerk, stated staff recommends Agenda Item 4(k) Approval of Code Enforcement Services Agreement be moved from the Consent Agenda to New Business. He also noted that the Metro Waste Authority presentation scheduled for tonight's Council Workshop will be postponed until the April 15th meeting.

On Item 1. Agenda. It was moved by Sandager, second by Trimble to approve the agenda as amended.

Vote 13-104: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 2. Public Forum: No one came forward.

On Item 3. Council/Manager/Other Entities Reports:

City Manager Greg Sparks reported on the citywide quality initiative, stating staff from the City Manager's Office has been meeting with the departmental quality teams. He noted there will be an emphasis on merging the Council's 2013-2018 goals with the quality team, and there will be a progress report given at an upcoming Finance and Administration Subcommittee meeting and then at a subsequent Council Workshop. He reported the recruitment for the Human Services Director position is still ongoing and over 30 applications have been received. He noted the process remains on track for on-site interviews in early to mid-May. He stated a Workshop will be held on Wednesday evening with the City Council and the Parks and Recreation Advisory Board regarding youth sports programs. He also stated the Southwest Economic Development Cooperative will meet on Thursday, April 4th.

Council member Ohmart reported he attended a board meeting for the Des Moines Metropolitan Planning Organization, where the board expressed support for a City of Grimes request for a legal clarification regarding which level of government has authority over bicycles on city streets when a trail is adjacent to the street, although he noted the board did not reach a consensus on how to obtain that clarification. He reported the MPO board also discussed the priority list of projects which will be presented to various federal officials during the Washington D.C. trip in May. He stated he supports adding the connection of Martin Luther King Jr. Parkway and Morningstar Drive to the list of priority projects, and the board decided that it would be added to the list unless either the City of Des Moines or Polk County objected. He reported he participated

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in a meeting with the IDOT District Engineer regarding the design of the Grand Avenue/I-35 interchange, particularly the revision to the design which removes a lane from each direction. The IDOT had explained the latest traffic projections are lower than was previously projected, but Council member Ohmart expressed his support for including the additional lane, because he believes the growth will warrant the added capacity in the relatively near future. He requested clarification, from IDOT, on the timeline of the project.

Duane Wittstock, City Engineer, responded the letting for the I-35 northbound lanes project is scheduled for January or February of 2014, so the specific interchange issue Council member Ohmart referenced will need to be resolved fairly soon so the design can be finalized.

Greg Sparks, City Manager, noted staff has drafted a letter to the IDOT District Engineer and IDOT Director regarding this matter, since that was the District Engineer's recommendation upon being asked how to communicate the City's position. Mayor/Council consensus was for the City Manager to send an appropriate letter to IDOT staff.

Council member Ohmart reported he met today with Parks and Recreation Director Gary Scott and Polk County Supervisor Angela Connolly regarding grant opportunities for the proposed Raccoon River Park archery facility.

Council member Mickelson reported he attended his first meeting of the Wastewater Reclamation Authority and subbed for Council member Sandager at a Finance and Administration Subcommittee meeting. He also stated he is finishing up meeting with department heads.

Council member Trimble reported he attended the Finance and Administration Subcommittee meeting, where discussion was held on the disposition of excess property, particularly related to the 105th Street interchange project, and the subcommittee expressed their desire to dispose of that excess property as soon as possible. An economic development update had been given to the subcommittee, which included an update on three proposed urban renewal plans and the economic development conceptual budget, which is on tonight's agenda. He reported the subcommittee discussed the possible relocation of WDM Human Services to the new City-owned property in the 100 block of 6th Street, and staff is working on calculating cost estimates for that possible relocation. He attended the Parks and Recreation Advisory Board meeting, where several possible models for youth baseball and the needed improvements for the Holiday Park baseball fields were discussed. He reported the City has received a \$24,000 grant from the Iowa Department of Natural Resources for the proposed archery facility. He also reported eight pieces of art were selected by the selection committee for public art on the City campus, and the recommendation will be given to the Public Art Commission for their approval, with the public art scheduled to be on display this summer. He also reported the community gardens are going well, and Hy-Vee has expressed interest in getting involved with the program.

Council member Trevillyan reported the Rubber Boot Bash was held on March 23rd and was well

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attended. He also reported a retired City employee, Loren Ripperger, has passed away and his funeral will be held on Thursday, April 4th.

Mayor Gaer reported he and Council member Trevillyan attended the ribbon cutting ceremony for the new West Bank in the 100 block of Grand Avenue.

Council member Ohmart noted the West Des Moines Chamber's "Big Deal" event will be held Friday, April 5th at the Val Air Ballroom.

On Item 4. Consent Agenda.

Council members pulled Item 4(c)7 and 4(s) for discussion. Mayor Gaer also noted Item 4(k) has been moved to New Business. It was moved by Ohmart, second by Sandager to approve the consent agenda as amended.

- a. Approval of Minutes of March 18, 2013 Meeting
- b. Approval of Bill Lists
- c. Approval of Liquor Licenses:
 - 1. Blazin Wings, Inc. d/b/a Buffalo Wild Wings Grill & Bar, 6925 Mills Civic Parkway, Suite #115 - Class LC Liquor License with Sunday Sales and Outdoor Service Privileges - Renewal
 - 2. Chipotle Mexican Grill of Colorado, LLC d/b/a Chipotle Mexican Grill, 1551 Valley West Drive, Suite #224 - Class LC Liquor License with Sunday Sales and Outdoor Service Privileges - Renewal
 - 3. Stephen C. Collins, d/b/a EP True Burger Café, 5014 EP True Parkway - Class LC Liquor License with Sunday Sales and High Proof Brew Pub - New
 - 4. Hy-Vee, Inc. d/b/a Hy-Vee Food Store & Drug Center #2, 1990 Grand Avenue - Class LE Liquor License with Carryout Wine, Carryout Beer, and Sunday Sales - Renewal
 - 5. Hy-Vee, Inc. d/b/a Hy-Vee Corporate Conference Center, 5820 Westown Parkway - Class LC Liquor License with Carryout Wine, Sunday Sales, and Catering Privileges - Renewal
 - 6. Kum & Go, LC d/b/a Kum & Go #66, 5308 University Avenue - Class LE Liquor License with Carryout Wine, Carryout Beer, and Sunday Sales - New
 - 8. Maid-Rite Corporation d/b/a Occasions Made Right, 6630 Mills Civic Parkway, #3102 - Class LC Liquor License with Catering Privileges - Renewal
 - 9. Blue Collar Enterprise, Inc. d/b/a The Hideout, 3535 Westown Parkway - Class LC Liquor License with Native Wine and Sunday Sales - New
 - 10. W West Investments, LLC d/b/a Wellman's West, 597 Market Street - Class LC Liquor License with Sunday Sales and Outdoor Service Privileges - Renewal
 - 11. W West Investments, LLC d/b/a Wellman's West Rooftop, 597 Market Street (Rooftop) - Class LC Liquor License with Sunday Sales and Outdoor Service Privileges - Renewal

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- d. Approval of Orders for Violation of Alcohol Laws
- e. Approval of Extended Sound Permit - Wellman's Pub, 597 Market Street
- f. Acknowledging City of Waukee Contract - Environmental Study - Alice's Road/105th Street/I80 Interchange
- g. Acceptance of Lease Assignment - 3421 Ashworth Road Monopole
- h. Approval of Contract Amendment No. 1 - Fire/EMS Station 17 Masonry Improvements and Window Replacement
- i. Order Construction - 2013 Sewer Cleaning and Televising Program
- j. Accepting Work - Thornwood Area Sanitary Sewer - Phase 1
- l. Approval of Professional Services Agreement - Wetland Mitigation Annual Monitoring
- m. Approval of Grant Applications - Dallas County Foundation
 - 1. Fire Department
 - 2. Park/Recreation Department
 - 3. Police Department
 - 4. Public Works Department
- n. Approval and Acceptance of Purchase Agreements and Easements for the Frink Creek Sanitary Sewer Project
- o. Approval of Easement Agreement - Martin Marietta Materials, Raccoon River Land Company
- p. Approval to Add Quail Ridge to the City's Solid Waste Collection Program and Approval and Acceptance of Hold Harmless Agreement
- q. Approval of Retention of Surety for Uncompleted Public Improvements and Release of Certificate of Completion - Woodland Hills/Michael's Landing Plat 1
- r. Acceptance of Economic Development Assistance for Outcomes, Inc.

Vote 13-105: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 4(c)7 Approval of Liquor License - Los Cabos, Inc. d/b/a Los Cabos, 5465 Mills Civic Parkway, Suite 101 - Class LC Liquor License with Sunday Sales and Outdoor Service Privileges - Renewal

Council member Trimble stated he believes Los Cabos has closed.

City Attorney Dick Scieszinski responded staff will follow up with the applicant to confirm with an update being provided to the Mayor/Council.

It was moved by Trimble, second by Mickelson to approve Item 4(c)7 Approval of Liquor License - Los Cabos, Inc. d/b/a Los Cabos, 5465 Mills Civic Parkway, Suite 101 - Class LC Liquor License with Sunday Sales and Outdoor Service Privileges - Renewal, subject to staff confirming the applicant is still operating at 5465 Mills Civic Parkway, Suite 101.

Vote 13-106: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes

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Motion carried.

On Item 4(s) Approval of Proclamation Honoring the Beta, FTC Team 3550

Mayor Gaer read the proclamation.

It was moved by Sandager second by Trevillyan to approve Item 4(s) Approval of Proclamation Honoring the Beta, FTC Team 3550.

The members of Beta, FTC Team 3550 reported on their team's accomplishments, their outreach to the community, and their fundraising activities.

Council member Ohmart suggested the team should seek funding from the City and Polk County.

Mayor Gaer noted that since the team competes internationally, their connections might offer potential opportunities for the Sister Cities Commission to collaborate with international communities.

Vote 13-107: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 5(a) Plaza at Jordan Creek, northeast corner of South Jordan Creek Parkway and Mills Civic Parkway - Amend the Specific Plan to Revise the Site Layout and Modification of Development Standards, initiated by Hurd-Jordan II, LLC

It was moved by Trimble, second by Trevillyan to consider the second reading of the ordinance.

Vote 13-108: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

It was moved by Trimble, second by Trevillyan to approve the second reading of the ordinance.

Vote 13-109: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

It was moved by Trimble, second by Trevillyan to waive the third reading and adopt the ordinance in final form.

Vote 13-110: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

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On Item 5(b) Amendment to City Code - Title 3 (Business and Licensing), Chapter 7 (Solicitors and Transient Merchants) - Revised Solicitor Regulations, initiated by the City of West Des Moines

It was moved by Trevillyan, second by Sandager to consider the second reading of the ordinance.

Vote 13-111: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

It was moved by Trevillyan, second by Sandager to approve the second reading of the ordinance.

Vote 13-112: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

It was moved by Trevillyan, second by Sandager to waive the third reading and adopt the ordinance in final form.

Vote 13-113: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

It was moved by Trevillyan, second by Sandager to adopt Resolution - Approval of Fees.

Vote 13-114: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 6(a) Mayor Gaer indicated this was the time and place for a public hearing to consider 2013 PCC Patching Program, initiated by the City of West Des Moines. He asked for the date the notice was published and the City Clerk indicated the notice was published on March 22, 2013 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated none had been received.

Mayor Gaer asked if there were any public comments; hearing none he declared the public hearing closed.

It was moved by Trimble, second by Sandager to adopt Resolution - Approval of Plans and Specifications, Motion to Receive and File Report of Bids, and Resolution - Award Contract to MPS Engineers.

Vote 13-115: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

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On Item 6(b) Mayor Gaer indicated this was the time and place for a public hearing to consider Quit Claim Deed/Permanent Easements - West Des Moines Outfall Sanitary Sewer - Phase 18, Segments 4 and 5, initiated by the City of West Des Moines. He asked for the date the notice was published and the City Clerk indicated the notice was published on March 22, 2013 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated none had been received.

Mayor Gaer asked if there were any public comments; hearing none he declared the public hearing closed.

It was moved by Trimble, second by Sandager to adopt Resolution - Approval of Conveyance.

Vote 13-116: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 7(a) Lincoln Street Park Plat 3, 300 block of Lincoln Street - Subdivide Lot 1 Lincoln Street Park Plat 2 into 3 Lots for Future Development, initiated by Lakeside Park Plaza, LC

It was moved by Trimble, second by Sandager to adopt Resolution - Approval of Final Plat and Release for Recordation, subject to the applicant complying with all applicable City Code requirements.

Vote 13-117: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 7(b) Galleria at Jordan Creek Plat 15, Lot 1, 6630 Mills Civic Parkway - Replat Existing Outlot into Developable Lot for Commercial Development, initiated by S-J-Jordan, LC

It was moved by Trimble, second by Sandager to adopt Resolution - Approval of Preliminary Plat and Overlay District Site Plan, subject to the applicant complying with all applicable City Code requirements and the following conditions of approval:

1. The applicant obtaining approval of and recording the Final Plat for the property prior to initiating any site development activity;
2. In conjunction with the approval and recordation of the Final Plat, the applicant providing an Amended Storm Water Management Facility Maintenance Agreement which establishes the Detention Easement area for this development;
3. In conjunction with the approval and recordation of the Final Plat, the applicant executing a Hold Harmless Agreement releasing the City from any liability for damages and any claims should excavation within the sanitary sewer easement be necessary;

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4. Adjusting the two sanitary sewer manholes and the one storm sewer manhole as necessary to comply with City standards and provide, if required, a set of Construction Drawings for Public Improvements for review and approval by the City Engineer prior to construction and prior to final approval of the Overlay District Site Plan and Final Plat; and,
5. The applicant properly abandoning utilities in accordance with the respective utilities specifications.

Vote 13-118: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 7(c) Amanda the Panda Grief Support Center, 1821 Grand Avenue - Site Modifications, initiated by Amanda Cares, Inc.

Mayor Gaer noted the only outstanding issue is the Development and Planning Subcommittee's concerns regarding the timing of the parking lot interconnect, but the applicant doesn't have control to make the connection at this time and they've agreed to the parking lot interconnect as soon as they have permission to do so.

Chris Shires, Development Planning and Inspection Manager, stated the letters included with the Council communication are from both adjoining property owners to the north, giving permission to let Amanda the Panda visitors park in their parking lots. At this time, however, they do not have permission to interconnect the parking lots.

Council member Trevillyan inquired if the applicant has requested permission to make that connection.

Jessica Fernandez, representing the Greater Des Moines Leadership Institute/Amanda the Panda, responded the request was made to the owner of the neighboring property, but the property owner did not agree at this time to make the connection, due to a large grading project they had done in that area.

Mr. Shires explained that since the proposed Amanda the Panda building lacks sufficient parking capacity in its own lot, the subcommittee's desire was to have the connection to the adjacent property's parking lot in place from the beginning. However, since that permission was not given, the connection was made a condition of approval, so that the City can require it be put in at some time in the future when it's possible. He noted there will be a sidewalk connection between the two parking lots.

It was moved by Trimble, second by Trevillyan to adopt Resolution - Approval of Minor Modification, subject to the applicant complying with all applicable City Code requirements and

the following conditions of approval:

1. In consideration of the parking agreements with the two (2) adjoining property owners immediately to the north, the City Council deferring the 20 parking stalls this site is short from meeting the City Code requirement, subject to the property owner agreeing to obtain additional parking, and/or modify operations, and/or reduce the size of events occurring at the facility at any such time that parking problems are identified as determined by the City's Development Manager;
2. The property owner agreeing to construct a parking lot interconnect to the parking lot on the adjoining property to the north at such time as they have the permission to do so;
3. The City Council deferring the installation of a four foot (4') wide public sidewalk along Elm Street until such time that a sidewalk is constructed along Elm Street on the adjoining property to the west or the property owner is otherwise directed to do so as part of the City's Sidewalk Improvement Program;
4. The property owner acknowledging and agreeing to comply with the city's Fats, Oils, and Grease (FOG) ordinance and that a change in operations may trigger the need for implementation of measures, including the construction of an external grease interceptor, in order to comply with the ordinance, and agreeing to contact the Wastewater Reclamation Authority (WRA) to discuss any changes in operation to determine if implementation of additional measures are warranted;
5. The property owner acknowledging that in conjunction with either a Major Modification or Rezoning Request for the property, unless already provided, the dedication of the necessary public street right-of-way for Elm Street and Grand Avenue may be required;
6. The property owner acknowledging that in conjunction with either a Major Modification or Rezoning Request for the property, unless already provided, the property owner will be required to enter into a Street Light Agreement requiring the property owner to install street lights along Elm Street at such time that the overhead power is placed underground;
7. The property owner acknowledging that in conjunction with either a Major Modification or Rezoning Request for the property, unless already provided, the property owner will be required to provide any additional public easement widths necessary to meet city code minimum width requirements; and,
8. The property owner acknowledging that in conjunction with either a Major Modification or Rezoning Request or a Minor Modification application which results in an increase of 2,000 sq. ft. or more of impervious surfacing within the site, the property owner/developer will be required to prepare a Storm Water Management Plan (SWMP) to bring the site into storm water management compliance in accordance with DSM

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Metro Design Standards and WDM Addendums, and will be required to execute the Storm Water Management Facility Maintenance Agreement (SWMFMA) if storm water run-off control measures are implemented within the site.

Vote 13-119: Mickelson, Ohmart, Trevillyan, Trimble...4 yes
Sandager...1 no

Motion carried.

On Item 7(d) Conceptual Approval of Economic Development Account Budget

Mayor Gaer expressed his desire to have specific criteria for measuring the success of this program.

Clyde Evans, Director of Economic Development, responded the program will generate cost savings by sharing booths with the Greater Des Moines Partnership at trade shows, and the program's success can be evaluated by counting the number of inquiries received from connections made at trade shows; however he noted it is sometimes difficult to determine exactly how any given call was generated. He noted the conceptual budget also includes expenses for sponsoring events, advertisements, and the production of marketing materials.

Council member Trimble inquired if the budget's money includes taxpayer money or if it's entirely generated from other revenue sources.

Mr. Evans responded it does not include any taxpayer money, and it is generated from MidAmerican Energy, WDM Water Works, and possibly some supplemental income from hotel-motel tax funds.

Council member Trimble expressed he shares Mayor Gaer's desire for specific criteria to measure the program's success.

Mayor Gaer requested staff develop a method for reporting how the program's success will be measured, so that it can be reported to the Finance and Administration Subcommittee on a regular basis.

Council member Mickelson inquired how the listed trade shows were selected.

Mr. Evans responded staff sought input from economic development professionals on where the most valuable connections could be made related to West Des Moines' targeted industries, and the ones that made the list had been identified as having the highest potential.

Council member Ohmart inquired who from the WDM Chamber/Development Connection would represent West Des Moines at trade shows.

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Mr. Evans responded it would be Chris Voggesser, President of the WDM Chamber, or Vic Cameruci, who is on contract with the WDM Chamber.

Mayor Gaer inquired who from the City staff would represent West Des Moines at trade shows.

Mr. Evans responded it would be himself or Naomi Hamlett, Planner.

It was moved by Trimble, second by Trevillyan to adopt Motion - Conceptual Approval of Economic Development Account Budget.

Vote 13-120: Mickelson, Ohmart, Sandager, Trevillyan, Trimble...5 yes
Motion carried.

On Item 7(e) Approval of Code Enforcement Services Agreement

Mayor Gaer requested City Attorney Dick Scieszinski give an overview of the issues that had been raised regarding this item.

City Attorney Scieszinski stated this project was up for bid last year and Council member Trevillyan's son, Justin Trevillyan of Prestige Lawns, bid on it but was not recommended by staff for award of the contract, due to the failure of Prestige Lawns to provide a second contact number as required by the request for proposals. Because Justin is the son of Council member Trevillyan, a legal opinion was issued at that time to address any potential conflicts of interest. Because Justin is an adult and the proposal was by competitive bid, there is no direct conflict of interest prohibiting Justin from bidding; however, because Justin lives with Council member Trevillyan and some or all of the equipment used by Prestige Lawns is stored at the Council member's residence, Council member Trevillyan has an indirect conflict of interest, and should abstain from voting. The City Attorney indicated that Prestige Lawns' bid was competitive and complied with all the bid requirements. It was reviewed by staff from Public Works and the Police Department, who then recommended awarding the contract to Prestige Lawns. He noted the City Attorney's office has also reviewed the matter and has no legal issue with awarding the contract to Prestige Lawns.

It was moved by Sandager, second by Trimble to adopt Resolution – Approval of Code Enforcement Services Agreement.

Vote 13-121: Mickelson, Ohmart, Sandager, Trimble...4 yes
Trevillyan...1 abstain due to a potential conflict of interest
Motion carried.

On Item 8(a) Heritage Hills, northeast corner of 88th Street and future EP True Parkway - Rezone Property from Neighborhood Commercial (NC) to Residential High-Density (RH-18) - F & S Associates - Referred to Plan and Zoning Commission

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On Item 9 - Other Matters: none

The meeting was adjourned at 6:27 p.m.

Respectfully submitted,

Ryan T. Jacobson
Deputy City Clerk

ATTEST:

Steven K. Gaer, Mayor